

Carok Conflict in Village Head Election: A Non-Penal Policy Analysis in Bangkalan Regency

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Abstract

This research aims to analyze the characteristics of carok in Madura and its non-penal policy. This is based on the habits of Madurese people who are more likely to resolve conflicts with a culture of violence (carok), such as village head elections, family, land and religion. This research is a normative legal research that uses two approaches, namely the statutory approach and conceptual approach. The data in this study are laws and regulations and the results of documentation on the basics in resolving problems or conflicts with carok in Madura. While other secondary data comes from literature studies in the field of law. Based on the research results, it can be stated that First, carok conflict in Madura is a symbol that is always attached to the Madurese community, as a distinctive character and aims to express its ethnic identity. Second, the carok tradition inherent in Madurese society changes with the times and shows the dynamism or openness of interpretation in relation to the socio-cultural dynamics that occur in Madurese society.

Keywords: *Conflict, Carok, Nonpenal Policy.*

Abstrak

Penelitian ini bertujuan menganalisis karakteristik carok di Madura dan kebijakan non penalnya. Hal ini didasarkan pada kebiasaan masyarakat Madura yang lebih cenderung menyelesaikan konflik dengan budaya kekerasan (carok), seperti pemilihan kepala desa, keluarga, tanah dan agama. Penelitian ini merupakan penelitian hukum normatif yang menggunakan dua pendekatan, yaitu pendekatan undang-undang dan pendekatan konseptual. data dalam penelitian ini adalah peraturan perundang-undangan dan hasil dokumentasi atas dasar-dasar dalam menyelesaikan permasalahan atau konflik dengan carok di Madura. Sedangkan data sekunder lainnya berasal dari studi pustaka di bidang hukum. Berdasarkan hasil penelitian dapat dikemukakan bahwa Pertama, konflik carok di Madura merupakan simbol yang selalu melekat pada masyarakat Madura, sebagai suatu karakter yang khas dan bertujuan untuk mengekspresikan identitas etnisnya. Kedua, tradisi carok yang melekat pada masyarakat Madura berubah seiring perkembangan jaman dan menunjukkan adanya dinamisme atau keterbukaan interpretasi dalam hubungannya dengan dinamika sosial-budaya yang terjadi dalam masyarakat Madura.

Kata Kunci: *Konflik, Carok, Kebijakan non penal*



INTRODUCTION

Indonesia is a country that has many tribes spread throughout the archipelago. One of them is the Madurese tribe (community) which mostly inhabits Madura Island. This community is widely known as a community that has a distinctive and unique culture. The prominent anthropological feature is that the community is open, expressive, spontaneous, and respects and upholds the values of politeness. In addition, it is also described as a very religious society, obedient to the laws of religious teachings, of which the majority are Muslims. This form of adherence to Islamic law is reflected in a well-known expression in their culture, namely: "*bhuppa'*, *bhabhu'*, *ghuru*, and *rato*" (father, mother, teacher and government leader).¹

Madura is one of the islands in Indonesia, precisely at the end of East Java. This area is mostly inhabited by the indigenous Madurese themselves. Madurese people are known to have a distinctive and unique culture, and their cultural identity is considered as the individual and communal identity of the Madurese ethnic group, both in behavior and life. One of the famous cultures in Madura is Carok. Carok in ancient language means a fight. It usually involves two people or two large families, and often even wars between villagers in Madura. Carok is defined as an act in the form of a fight between a person and another person or group with a group, preceded by an agreement and by using sharp weapons. However, there are also interpretations of Carok as an act that intends to eliminate the lives of others by using sharp weapons.

One of the behaviors of some Madurese people that does not reflect Islamic values at all is the strong model of conflict resolution through physical violence known as carok. *Carok* is an act of *vigilantism* (*eigenrichting* or *vigilante justice*). Semantically *caruk* (*carok*) is fighting en masse using a *celurit*, a traditional sharp weapon from East Java, especially Madura. This *celurit* is shaped like a crescent moon which is used as a weapon to slash or slash. Meanwhile, the term carok comes from the Javanese Kawi language which means fighting. The practice of carok is a social phenomenon that is still inherent in the daily lives of some of the local community, especially for those who live in rural areas and lack education.² The perpetuation of the conflict resolution model through carok is actually contradictory to the facet as a religious society and is certainly contrary to the values of Pancasila and Islamic morality.

Carok is one of the two cultural wisdoms preserved in Madura. The second cultural wisdom is cow racing. This first view tends to be haphazard, meaningless in the context of culture. A more careful and thorough and humanistic view is that the *celurit* (*are'*) is a cultural

¹ A. Latief Wiyata, *Carok: Konflik Kekerasan Dan Harga Diri Orang Madura* (Yogyakarta: LKiS, 2002).

² Syamsul Ma'arif, *The History of Madura: The Long History of Madura from Kingdom, Colonialism to Independence* (Araska, 2015).

device in Madura, like other objects such as *ceppo*, *lenchak* (bamboo bed), and *panebbha* (mini stick broom).³

Some Madurese people think that carok is not prohibited by state law or even a crime. Socio-criminologically, it is not easy to determine whether carok is a crime or not. In criminology, the notion of crime is very relative and changes depending on time and place. For certain societies, an act can be categorized as a crime, but not so for other societies.

In terms of other things, the nature of some Madurese that we often encounter is easily offended, suspicious, angry, hot-blooded, violent, vindictive, like fighting, and cruel. If a Madurese person is humiliated, then a fight will be the way to resolve and immediately avenge the insult he received, or wait until the opportunity comes to take revenge. Fights, Carok and murder are something that can happen every day. To maintain honor all is sacrificed as once said by a Madurese proverb "*etemmabbang pote mata ang'o'an apotea tolang*", or rather than living to bear shame it is better to die in the dirt.

Policy model with non-penal mediation based on local wisdom is more flexible in nature, if peace (*islak*) does not work, then the case can be resolved according to criminal law within the framework of the *Integrated Criminal Justice System (Integrated Criminal Justice System)*, so that the reference is still sourced from the *Criminal Procedure Code* and the *Criminal Code* that is currently in force.

In relation to overcoming carok cases that prioritize the values of local wisdom that have been hereditary and become the identity of the Indonesian people in general, and the Madurese community in particular, such as deliberation for consensus, efforts to restore an unequal balance as a result of a criminal act and the re-creation of harmonious life in the midst of society are the hopes and dreams of all people. This is in line with the thoughts of John Rawls, the originator of the most comprehensive theory of justice, who put forward the theory of balance as part of the concept of justice, namely that there needs to be a balance between personal interests and common interests, and how the size of the balance should be given, that is what is called justice. The existence of balance (*evenwicht*) by stating that the normal state (normal) of mankind in relation to supernatural forces, land, and other goods that are happy and harmonious can be achieved if a balance is created, so that the occurrence of violations (*delicts*) is a disturbance to the balance that raises customary reactions that must be carried out through the prosecution of offense payments (*delictsbetalingen*) to restore cosmic balance, where the balance is a prerequisite for the happiness of mankind.

RESEARCH METHODS

³ Heny Gustini Nuraeni and Muhammad Alfian, *Studi Budaya Di Indonesia* (Bandung: Pustaka Setia, 2012).

This research uses a descriptive qualitative approach by applying normative or doctrinal legal research and also elaborated with an inductive approach. The inductive approach starts from facts in the field and analyzed by questions of research then described with the appropriate theories, arguments, laws and then statements to conclusions.⁴

The approaches used in law research according to Peter Mahmud Marzuki are as follows; *Statute approach* and *Conceptual approach*.⁵ The law research is using primary and secondary datas. Primary data are binding and consist of basic norms or basic rules, namely the 1945 Constitution of the Republic of Indonesia, Law No. 1 of 1946 about Criminal Law Regulations, Law No. 1 of 2023 about Criminal Law Regulations, Bangkalan District Court Decision Number 282/Pid.B/2013/PN.Bkl, Bangkalan District Court Decision Number 169/Pid.B/2013/PN.Bkl. And the secondary data are literatures about law.

The data analisys technique is by literature study, or conducting a primary and secondary datas that related to the subject matter. Legal material processing techniques are: a) Deductive, which is generally guided by laws and regulations; b) Descriptive, used in describing, quoting or clarifying the sound of laws and regulations, and general descriptions; c) Comparative, used in comparing differences of opinion, especially on material that might cause disagreement and cause confusion.

RESULTS AND DISCUSSION

Carok as a Madurese Culture

The Madurese community is known to have a distinctive and unique culture, identity and character and upholds the value of self-esteem.⁶ Expressive, spontaneous, and open attitude when responding to everything encountered, especially to the treatment of himself, is what is the character of the Madurese community.⁷ Madura also known as an ethnic group that has distinctive values, characters and elements that are different from other regions. The hard and religious disposition is an interesting feature of Madurese society. This is a stigma that exists in the general public who do not know Madurese well. Their assessment of the Madurese only refers to what is visible in front of them such as the unique language or dialect and the process of resolving disputes through customary law which is quite sadistic. It is no secret that Madura is famous for its *Carok* culture, which is a form of dispute resolution. Usually, *Carok* is carried

⁴ Amiruddin and H. Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: PT Raja Grafindo Persada, 2006).

⁵ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2013).

⁶ Emy Handayani and Fatih Misbah, "Carok, 'Di Persimpangan' Budaya Dan Hukum Positif," *Jurnal Crepido Jurnal Mengenai Dasar-Dasar Pemikiran Hukum: Filsafat Dan Ilmu Hukum* 01, no. 01 (2019): 23–31, <https://ejournal2.undip.ac.id/index.php/crepido/>.

⁷ H. Cahyono, *Model Mediasi Penal Dalam Penanggulangan Konflik Kekerasan (Carok) Masyarakat Madura Berdasarkan Local Wisdom* (Jakarta: Deepublish Digital, 2019).

out if an act committed is considered to hurt the feelings of one party which is felt to bring down the dignity of the party concerned.

Self-esteem, especially for Madurese men, is essential issues often lead to a choice between life or death.⁸ This is in accordance with a Madurese proverb that states “*Lakona daging bisa ejai', lokana ate ada', tmbana kajaba ngero' dara,*” which means “Wounded flesh can still be stitched, but if the heart is injured there is no cure, except drinking blood.”⁹ More straightforward is the Madurese proverb “*Lebbhi bagus pote tolang katenbang pote mata*”, which states that “It is better to die than to live in shame.”

Carok is one of the hereditary habits of the Madurese people whose existence is still valid today. The habit of *carok* is one of the efforts to resolve disputes in Madura by using violence. However, violence in the *carok* tradition has a different nature between the general public and the Madurese community. In sociology, the habit of *carok* has been a social identity and habit in Madurese society for a long time, whether the history is written in official records or not.¹⁰ Moreover, based on the history of colonization in Indonesia, especially the Madura region, *carok* emerged in the 1700s when the Dutch VOC began to control Madura, which was in the form of a kingdom at that time.¹¹ Madurese people now did not have confidence in the legal justice sector because of the rampant acts of violence. The emergence of violence in the life of the Madurese community was caused by two important things. *First*, the government at that time did not pay attention to acts of violence by the Madurese community, and *second*, as a consequence of the first.¹² Based on this, Madurese people became distrustful of the government, so that problem and conflict resolution was also not based on government policy.

Crime prevention efforts need to be pursued with a policy approach, in the sense of *integration* between criminal politics and social politics and there is integration between penal and non-penal crime prevention efforts.¹³ The affirmation of the need for crime prevention to be integrated with overall social policy and development planning is also seen in Sudarto's statement that sanctions in criminal law are negative sanctions, therefore criminal law is a negative sanction system.

⁸ Ma'arif, *The History of Madura: The Long History of Madura from Kingdom, Colonialism to Independence*.

⁹ Mohamad Fauzi B. Sukimi, “Carok Sebagai Elemen Identiti Manusia Madura (Carok and the Formation of Madurese Identity),” *Akademika* 65, no. (2004): 91–110, <https://journalarticle.ukm.my/4266/1/akademika65%5B02%5D.pdf>.

¹⁰ Sukardi, “PENANGANAN KONFLIK SOSIAL DENGAN PENDEKATAN KEADILAN RESTORATIF,” *Jurnal Hukum & Pembangunan Volume* 46, no. 1 (2016), <https://doi.org/10.21143/jhp.vol46.no1.49>.

¹¹ Mien Ahmad Rifai, *Manusia Madura: Pembawaan, Perilaku, Etos Kerja, Penampilan, Dan Pandangan Hidupnya Seperti Dicitrakan Peribahasannya* (Yogyakarta: Pilar Media (Angota IKAPI), 2007).

¹² Wiyata, *Carok: Konflik Kekerasan Dan Harga Diri Orang Madura*.

¹³ Lontar Madura, “Memahami Tradisi Carok Pada Masyarakat Madura,” [lontarmadura.com](https://www.lontarmadura.com), May 13, 2014, <https://www.lontarmadura.com/tradisi-carok-pada-masyarakat-adat-madura/2/>.

In addition, considering the nature of the punishment, which "should" only be applied when other means (efforts) are inadequate, it is also said that criminal law has a "subsidiary function." However, if criminal law is to be used as a means to overcome crime, then its use cannot be separated from the overall relationship of criminal politics or "*planning for social defense*". This "*social defense planning*" must also be an integral part of the national development plan.¹⁴

A Non-Penal Policy Analysis in Carok Conflict in Village Head Election Bangkalan Regency

The tackling crime there needs to be a balance in the operation of crime prevention. The balance is given a place for non-punitive means in crime prevention. Penal means are crime prevention not outside of criminal law. Non-penal means focus more on the nature of "prevention" before the occurrence of crime. The main target is to deal with factors conducive to the occurrence of crime.¹⁵

This balance is in addition to the *integration* between criminal politics and social politics, as well as the integration between "penal" and "non-penal" crime prevention efforts. Non-penal means are means that focus on prevention in tackling crime. Meanwhile, penal means are means that emphasize suppression or *repercussion*. So the prevention and control of crime must be done with an "integral approach".¹⁶

The main target of the non-punitive path is to deal with factors conducive to the occurrence of crime, which centers on social conditions that can directly or indirectly cause or foster crime. Crime can occur due to various factors that exist in society itself, therefore crime prevention still requires community participation. Public awareness of its role in preventing crime is an important factor in reducing the crime that occurs. Crime prevention cannot be left only to law enforcers who in reality work after a crime, so cooperation between the community and law enforcement is needed in crime prevention efforts.¹⁷

The Carok tradition, a customary revenge practice that still takes place in several regions in Indonesia, especially in the Aceh and Madura regions, presents a complex dilemma in the context of modern law.¹⁸ On the one hand, this tradition has cultural and social values that are

¹⁴ Sudarto, *Hukum Dan Hukum Pidana (Cetakan Kelima)* (Bandung: PT. Alumni, 2005).

¹⁵ Mahrus Ali, "Akomodasi Nilai-Nilai Budaya Masyarakat Madura Mengenai Penyelesaian Carok Dalam Hukum Pidana," *Jurnal Hukum Ius Quia Iustum* 17, no. 1 (2010): 85–102, <https://doi.org/https://doi.org/10.20885/iustum.vol17.iss1.art4>.

¹⁶ Mahrus Ali, "DOMINASI HUKUM NEGARA DALAM PENYELESAIAN PERKARA CAROK (Studi Konstruksi Penyelesaian Perkara Carok Berdasarkan Nilai-Nilai Budaya Masyarakat Madura)" (Universitas Islam Indonesia Yogyakarta, 2009), https://dspace.uui.ac.id/bitstream/handle/123456789/9012/mahrus_ali_fix.pdf?sequence=1&isAllowed=y.

¹⁷ Otto Yudianto, "Karakter Hukum Pancasila Dalam Pembaharuan Hukum Pidana Indonesia," *DIH, Jurnal Ilmu Hukum* 12, no. 23 (2016): 35–44, <https://doi.org/https://doi.org/10.30996/dih.v12i23.890>.

¹⁸ Imam Safi'i, "Strategi Komunikasi Kiai Desa Dalam Upaya Pemberdayaan Remaja Demam Togel," *Al-Mada: Jurnal Agama, Sosial, Dan Budaya* 2, no. 2 (2019): 47–63, <https://doi.org/10.31538/almada.v2i2.336>.

strongly held by the local community. On the other hand, the Carok tradition clearly contradicts positive law that prohibits acts of violence and murder.

All Carok cases are preceded by conflict, although the conflicts are motivated by different issues (as women case, theft, inheritance, and revenge case), all refer to the same root, which is the feeling of *shame* due to the violation of self-esteem.¹⁹ To restore the harassed self-esteem, they resort to Carok, which apparently always receives support from the social environment. Regardless of the way Carok is carried out, all Carok perpetrators who succeed in killing their enemies show feelings of relief, satisfaction and pride.²⁰ The notion of self-esteem in relation to the feeling of *malo* caused when harassment occurs, these two things are the main triggering factors for Madurese people to carry out Carok, in addition to other factors.

According to the perpetrator, the motive for Carok that occurred was because he did not want to be rivaled in relation to the village head election (*Bator*). He (suspect G) is a supporter, does not want his younger brother to be rivaled. There was a resident of Bulung Village who was running for village head in another village (*Bator*), either a younger sibling or essentially still related and the stabbing incident occurred. The victims were from the camp of the defeated village head candidate.

For these actions, suspect G was charged with Article 340 Subsidiary to Article 338 Subsidiary to Article 170 Paragraph (2) Subsidiary to Paragraph (3) of the Criminal Code on the Crime of Eliminating the Life of Another Person by Murder. In addition, suspect G was also charged with Article 2 of Emergency Law (UU) Number 12 of 1951 concerning Possession of Sharpware.²¹ The application of the Emergency Law also applies to the six suspects in possession of sharp weapons. The perpetrators are now charged with premeditated murder. The perpetrators are charged with murder and beating to death, stoning, and premeditated murder.²²

After recognizing the factors that cause crime, the causative elimination or treatment of the factors that cause crime is then carried out. The solutions instructed by the UN to its members in crime prevention, such as at the 6th UN Congress in 1980 in Caracas, Venezuela are as follows: "Calling on all UN members to take action within their power to eliminate living conditions that degrade human dignity and cause crime, which include problems of

¹⁹ Novri Susan, *Pengantar Sosiologi Konflik* (Jakarta: Kencana Prenada Media Group, 2014).

²⁰ Yudianto, "Karakter Hukum Pancasila Dalam Pembaharuan Hukum Pidana Indonesia."

²¹ R. Soesilo, *Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal* (Bogor: Politeia, 2013).

²² Desi Tamarasari, "PENDEKATAN HUKUM ADAT DALAM MENYELESAIKAN KONFLIK MASYARAKAT PADA DAERAH OTONOM," *Jurnal Kriminologi Indonesia* 2, no. I (2002): 37–47, <https://media.neliti.com/media/publications/4219-ID-pendekatan-hukum-adat-dalam-menyelesaikan-konflik-masyarakat-pada-daerah-otonom.pdf>.

unemployment, poverty, ignorance, racial and national discrimination and various forms of social inequality.”²³

In line with the above, Habib-Ur-Rahman Khan in his book entitled *Prevention of Crime* explains “*It is Society Which Needs The Treatment and Not the Criminal.*” This means that if crime is seen as a product of society, then it is society that needs treatment and not the criminal. Thus, the treatment of a crime is not only shown to the perpetrator, but the community and environmental conditions also require treatment and guidance.²⁴

One aspect of social policy that should be a major concern in tackling a crime is addressing the issue of community spirit. The cultivation of the community's psyche is important because of how to raise awareness from the heart that the importance of behaving in accordance with the moral values that develop in society so as not to violate legal, moral and religious norms. This can be done both individually as a member of society and family health, including the welfare of children and adolescents, as well as the wider community in general.

Sudarto has also suggested that youth organization activities, scouting activities and the cultivation of public mental health with religious education are non-punitive efforts in preventing and overcoming crime.²⁵ With effective religious education and counseling, it is hoped that it will reinforce human beliefs and abilities to follow the path of truth and goodness. So that not only the development of a healthy human person but also a healthy family and a healthy social environment.

Non-penal means can also be explored from various other sources which have a preventive effect on crime. This can be done by utilizing technology, through the press or mass media, patrols by the police and raids conducted by the police. All preventive efforts with non-punitive means have a very strategic position, holding a key position so that it must be intensified and effective.²⁶

Failure in the cultivation of this key position will have fatal consequences for crime prevention, because the means will automatically work alone in tackling crime. By integrating and harmonizing non-penal with an organized and integrated system of state activities, as well as integrating and harmonizing non-penal and penal, it is hoped that “*social defence planning*” can truly succeed.

²³ Cahyono, *Model Mediasi Penal Dalam Penanggulangan Konflik Kekerasan (Carok) Masyarakat Madura Berdasarkan Local Wisdom*.

²⁴ Prof. Dr. Barda Nawawi Arief, *Masalah Penegakan Hukum Dan Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan* (Jakarta: Prenada Media, 2018).

²⁵ Sudarto, *Hukum Dan Hukum Pidana (Cetakan Kelima)*.

²⁶ Ali, “Akomodasi Nilai-Nilai Budaya Masyarakat Madura Mengenai Penyelesaian Carok Dalam Hukum Pidana.”

CONCLUSION

Based on the results of the discussion of the previous problems, the following conclusions are obtained:

1. Carok in Madura is a symbol that is always attached to the Madurese community, as a distinctive character. This is reflected in the expression: "If a Madurese man does not dare to do carok, then he is not only considered a coward (*tako'an*) but also not a man (*ta' lalake'*). Women also scoff at it expressed in a sentence, "Unfortunately I am a woman, if I had a testicle the size of cayenne pepper, I would do carok". Some even said: "*Mon ta' bangal acarok ja' ngako oreng Madura*" (if you don't dare to do carok, don't claim to be a Madurese). This phenomenon shows the dynamism in the carok tradition, meaning that the carok tradition will always be open to an interpretation in relation to the socio-cultural dynamics that occur in Madurese society.
2. Non-penal policy focuses more on the *preventive* nature before the crime occurs. Efforts to overcome crime through non-penal means are more preventive measures so that crime does not occur, so the main target is to deal with factors conducive to the occurrence of crime. Non-penal efforts occupy a key and strategic position in the overall criminal policy efforts. Habib-Ur-Rahman Khan in his book entitled *Prevention of Crime* explains "*It is Society Which Needs The Treatment and Not the Criminal*" means that if crime is seen as a product of society that needs treatment and guidance. This can be done by utilizing technology, through the press or mass media, patrols by the police and raids conducted by the police.

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